

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **June 24, 2003, Work Session**

AGENDA ITEM NO.: **2**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Rental Inspection Program; Report on Meeting with Landlords**

RECOMMENDATION: None at this time.

SUMMARY: Staff met with a number of landlords to discuss the implementation of the revised Rental Inspection Program. In general, the landlords understand the purpose of the program and support its goals. While there are minor concerns about program administration and some doubts about the ultimate effectiveness, there is considerable disagreement with the way that the program will be paid for. The landlords argue that there is no authority in the State Code to charge fees for registration. Staff respectfully disagrees. Beyond that, the landlords believe that it is inappropriate to charge the landlords for a program that, they argue, is intended to provide a broad community benefit through the improvement of housing stock, property values and neighborhoods. They suggest that funds from the program should come more appropriately from General Fund revenues.

As an alternative, it was suggested that the City should institute civil penalties for code violations and use the resulting fines to fund the program. Karl Cooler and Walter Erwin have been looking into this option and can brief Council on the alternatives if that is desired.

Finally, the landlords expressed the strong feeling that they, as a group, were being "picked on" due to problems from a few less scrupulous landlords. They pointed to the rental inspection program, the elimination of trash service to multi-unit rental complexes, and the new requirement that utility bills be in the landlord's name as three recent examples as the City's negative attitude toward landlords and rental property.

PRIOR ACTION(S): Adoption of a revised Rental Inspection Program, February 2003; reaffirmation of intent to implement program May 2003

FISCAL IMPACT: \$65,000 first year costs; present plan is to cover this cost through an \$18/rental dwelling unit annual fee.

CONTACT(S): Kimball Payne, Walter Erwin, Karl Cooler

ATTACHMENT(S): City Code Excerpt re Rental Inspection Program

REVIEWED BY: lkp

Excerpt from the Lynchburg City Code

DIVISION 3. RENTAL PROPERTY REGISTRATION AND INSPECTIONS.

Sec. 11-62. Purpose and intent.

This division is adopted to ensure the public health, safety and welfare in rental dwellings and dwelling units located within those areas of the city determined by City Council herein to be in need of a special program of housing inspections. This program is designed and intended to prevent property deterioration and neighborhood blight in designated areas by requiring proper building maintenance and continued compliance with applicable building regulations.

Sec. 11-62.1. Definitions.

(a) Generally. Certain words and phrases used in this division shall have the meanings prescribed to them by this section, except in the instances where the context clearly indicates a different meaning.

(b) Building official. The officer or other designated authority charged with the administration and enforcement of this ordinance and the USBC, or a duly authorized representative.

(c) Certificate of compliance. A certificate of compliance will be issued after a dwelling unit has been inspected by the inspections division and has no violations outstanding. The unit may be rented.

(d) Certificate of registration. The building official will issue a certificate of registration after the inspections division has received a completed registration form and accompanying certification that the property meets the minimum habitable standards. A certificate of registration will be issued in place of a certificate of compliance where a rental dwelling unit has not been inspected by City of Lynchburg inspectors. The unit may be rented.

(e) Dwelling unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(f) Inspections division. The section of the department of community planning and development responsible for enforcement of the property maintenance code of the City of Lynchburg.

(g) Minimum habitable standards. The requirements for compliance as outlined in Part III, USBC, Maintenance of Existing Structures, Part IV, USBC, Technical Amendments, and Chapters 3 through 7 of the BOCA National Property Maintenance Code, 1996 Edition as adopted by the USBC.

(h) Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure.

(i) Property. The word “property” shall mean dwelling units which are leased or rented in whole or in part, to tenants for valuable consideration. The word “property” shall include dwelling units occupied under a lease/purchase agreement.

(j) USBC. Virginia Uniform Statewide Building Code.

Sec. 11-62.2. Effective date and applicability.

In order to protect the public health, safety and welfare the areas described in this section are designated as conservation and rehabilitation areas as provided by Section 36-105 of the Code of Virginia for the purpose of conducting inspections at specific time intervals in order to determine that the buildings are in compliance with current building code regulations. The provisions of this division shall be applicable to all dwelling units that are located in the following areas of the city:

That area of the city designated as census tract #2.03 by the 2000 Census Data.

That area of the city designated as census tract #4 by the 2000 Census Data.

That area of the city designated as census tract #5.00 by the 2000 Census Data.

That area of the city designated as census tract #6 by the 2000 Census Data.

That area of the city designated as census tract #7 by the 2000 Census Data.

That area of the city designated as census tract #11 by the 2000 Census Data.

That area of the city designated as census tract #12 by the 2000 Census Data.

That area of the city designated as census tract #13 by the 2000 Census Data.

The census tracts identified above encompass that area of the city beginning at the eastern corporate limit of the city, thence northwest along the James River and the

corporate limits of the city to the Norfolk Southern Railway tracks near Riverside Park, thence south along said tracks to Blackwater Creek, northwest along Blackwater Creek to an unnamed tributary creek, along said tributary southwest to the intersection of Page Street and Hillcrest Avenue, northwest on Page Street to Tate Springs Road following said road southeast to Langhorne Road; continuing on Langhorne Road southeast to Memorial Avenue, southwest on Memorial Avenue to Fort Avenue continuing northeast on said road to its intersection with Rutherford Street, continuing on Rutherford Street southeast to its intersection with Craighill Street, thence southeast on Craighill Street to its intersection with Edley Place, continuing southeast on Edley Place to its intersection with the Norfolk Southern Railway tracks, south along the said tracks to a railroad intersection, continuing southeast along Norfolk Southern Railway tracks to their intersection with the southeastern corporate limits of the city; thence northeast along the corporate limits of the city to the point of beginning. They also encompass an area of the city that begins at the intersection of Lakeside Drive and Breckenbridge Street, thence west along Lakeside Drive to its intersection with Blackwater Creek, southwest along Blackwater Creek to an unnamed tributary creek, southeast along said tributary to a point of intersection with College Street, thence northeast along College Street to its intersection with Westwood Avenue, continuing southeast on Westwood Avenue to its intersection with Thomas Road, thence northeast along Thomas Road to its intersection with Brevard Street, continuing northwest along Brevard Street to its intersection with College Street, thence northeast along College Street to its intersection with Vernon Street, continuing southeast along Vernon Street to its intersection with College Drive, thence north along College Drive to its intersection with Breckenbridge Street, continuing northwest along Breckenbridge Street to the point of beginning.

Sec. 11-62.3. Registration of rental property required.

(a) No owner, managing agent, or other person in control of any dwelling unit located in the areas covered by this division shall make such property available as rental property until said dwelling unit shall have been registered with the building official prior to occupancy. The owner or agent shall certify on a registration form provided by the building official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the rental property to be registered meets these standards and is in compliance with these provisions and all other applicable codes, standards and ordinances. Receipt of this certification shall be evidenced by a certificate of registration issued by the building official and to be displayed in the rental unit.

(b) Except in the case of an emergency involving a threat to life and property, as determined by the building official, no electric power company or gas company shall

commence electrical or gas service to a dwelling or dwelling unit subject to this division, or continue service unless or until a valid certificate of registration has been issued for such property.

Sec. 11-62.4. Notice by owner, etc.

(a) On or before January 1 of each year, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall furnish the department of community planning and development, in writing, with a registration renewal form provided by the building official for all rental properties that they own or manage in those areas of the city that are covered by this division.

(b) No owner, managing agent, or other person in control of any dwelling unit located in the areas covered by this division shall continue to make such property available after January 1 of each year as rental property until said dwelling or dwelling unit shall have been registered with the building official. The owner or agent shall certify on a renewal registration form provided by the building official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the rental property to be registered meets these standards and is in compliance with these provisions and all other applicable codes, standards and ordinances. Such receipt of this certification compliance shall be evidenced by a certificate of registration issued by the building official to be displayed in the rental unit.

(c) In the event the building official furnishes the owner or managing agent with information forms requesting certain information regarding rental properties, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall complete such forms and return them to the building official within the designated time period.

(d) It shall be a violation of this division for an owner or managing agent to fail or refuse to register any rental dwelling unit with the department of community planning and development or to provide false or misleading information.

Sec. 11-62.5. Inspection of rental properties.

(a) The building official shall cause periodic inspections to be made of dwelling units located in those areas of the city covered by this division to ensure compliance with this division. After such inspection, the owner and the managing agent, if any, will be provided with a list of any violations found and the date by which such violations must be corrected. The failure to correct such violations within the

designated time period shall constitute a violation of this division and also may result in revocation of the certificate of registration or certificate of compliance.

(b) Upon determination that the dwelling unit is in compliance with Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and all other applicable codes, standards and ordinances, a certificate of compliance will be issued to the owner or managing agent.

Section 11-62.6. Code enforcement fees.

There shall be a code enforcement fee annually to accompany the registration of each dwelling unit located in those areas of the city covered by this division. If an inspection is performed as a result of a periodic inspection or a complaint, there shall be no charge for this inspection. In the event any repairs or corrections are deemed necessary and a second inspection is required, there shall be no charge for the second follow-up inspection. In the event a third or subsequent inspection is required, the owner shall be charged a reinspection fee for each inspection of a dwelling unit. The code enforcement fees will be as determined by city council from time to time and a copy of the schedule of fees will be kept in the office of the inspections division of community planning and development and shall be available for review upon request. No certificate of compliance shall be issued until all inspection fees have been paid and all violations have been corrected.

Sec. 11-62.7. Entry.

For the purpose of enforcing provisions of this division, the director of the department of community planning and development, or his duly authorized agent, shall have the right to inspect any dwelling or dwelling unit within designated areas identified in Section 11-62.2 of this division at any reasonable time. In the event the director of community planning and development, or his duly authorized agents shall be denied access to a dwelling or dwelling unit may apply for an administrator search warrant in order to gain access to the premises. It shall be a violation of this division for any owner, managing agent, tenant, or other person, to deny the director of community planning and development, or his duly authorized agent, access to any dwelling or dwelling unit within the areas covered by this division.

Sec. 11-62.8. Permits.

The owner is responsible for complying with all permit and licensing requirements required by the Virginia Uniform Statewide Building Code and other ordinances in effect for the City of Lynchburg.

Sec. 11-62.9. Violations.

(a) It shall be unlawful for any owner to fail to comply with the requirements contained in this division.

(b) Any person failing to comply with the requirements of this division shall be punishable by a fine of not more than \$2,500. Each day such violation continues shall constitute a separate punishable offense.

Sec. 11-62.10. Enforcement.

The building official and his authorized agents are hereby empowered to enforce all of the provisions of this division, to act pursuant to the authority contained herein and to perform all the duties required thereby.

Sec. 11-62.11. Temporary waiver.

(a) Any owner or managing agent whose rental property is inspected and found not to be in compliance with the code may petition the building official, in writing, for a temporary waiver of compliance. The petition shall be on a form provided by the building official and shall contain the information therein requested and which may be reasonably necessary to its decision, and shall include a written statement signed by the applicant, acknowledging the actions needed, specifying the anticipated date of beginning and completion of the work, and if known, the name of the person or company that will perform the work. If the building official finds that:

1. The delay in the correction of the violation is reasonable, taking into the consideration the availability of qualified persons to do the work and the current work load; and
2. The work can be reasonably undertaken and completed while the premises are occupied or that appropriate provision has been made for housing the tenant elsewhere when the dwelling or dwelling unit will not be habitable because of the work of correcting violations; the building official may issue a temporary waiver of compliance which will allow a reasonable period of time to achieve compliance. This

period shall not be less than thirty (30) days nor more than sixty (60) days. The applicant shall, on or before such date, request a reinspection and pay any registration fee that may be required by Section 11-62.6 of this division.

(b) No waiver granted under this section shall be valid unless in writing and signed both by the building official or his designee and the applicant.

Sec. 11-62.12. Severability.

The provisions of this division are intended to be severable, and if any such provision be deemed or adjudged to be invalid or unenforceable, the remaining portions of this division shall remain in full force and effect with their validity unimpaired.